



XL Group
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May 8, 2012

Speaker Pro Tempore John Walsh
Chair, House Judiciary Committee.
N-698 House Office Building
P.O. Box 30014
Lansing, MI 48909

Re: Support of Indemnity Language - HB 5466

Dear Representative Walsh:

We write to express our support for the passage of House Bill 5466, which was recently introduced in the Michigan Legislature. As you may know, the XL Design Professional Group, a unit of XL Group plc's global insurance operations, is one of the leading insurers of design professionals in the United States, and which serves the professional liability insurance needs of many Michigan architects and engineers. As such, we possess a unique understanding of implications of contractual indemnity provisions, including indemnity provisions that place potentially uninsurable obligations upon our clients. We firmly believe that passage of HB 5466 would be in the best interests of the entire design professional community, as well as the State of Michigan, its agencies, and constituents. Accordingly, we feel obligated to express our support for the proposed Bill.

In many instances, Design Professionals are asked by their clients to sign contracts that would require the Design Professional to assume liability far beyond any degree of actual fault. By rendering such contractual language void and unenforceable, the proposed Bill would establish greater fairness and equity between the contracting parties. Moreover, the Bill would greatly diminish the potential for an uninsurable risk to the design professional. Generally speaking, claims against Design Professionals based upon contract language requiring the Design Professional to assume liability for an amount greater than the degree of fault of the Design Professional would not be covered by professional liability insurance. These uninsurable contract provisions create an unfunded liability, leaving the State potentially exposed. As a result, not only does the proposed Bill diminish the risk to the Design Professional, it also serves to protect the State and its constituents.



It is, therefore, XL's position that the proposed indemnity language in HB 5466 more accurately reflects a fair and balanced indemnity agreement, which does not pose the potential insurability issues previously discussed. Accordingly, XL Design Professional fully supports the proposed bill and encourages its passage by the Michigan Legislature.

Thank you for kind consideration of these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul D. Rowe', with a long, sweeping horizontal line extending to the right.

Paul D. Rowe
Vice President
Design Professional

Cc: Ron Brenke, ACEC/Michigan & ASCE Michigan Section
Kim Fricke, Professional Concepts Insurance Agency
Al Rabasca, XL Insurance